



Via ECF

March 7, 2024

The Honorable Nancy E. Brasel
United States District Judge
United States District Court for the District of Minnesota
300 South Fourth Street
Minneapolis, MN 55415

Re: *Melinda and Mark Loe, et al. v. Willie Jett, et al.*
D. Minn. Case No. 23-cv-1527

Dear Judge Brasel,

Plaintiffs University of Northwestern – St. Paul and Crown College (the Schools) submit this response to Defendant Minnesota Department of Education's (MDE) March 6, 2024 Notice of Supplemental Authority (ECF No. 64).

MDE states that *Crosspoint Church v. Makin*, No. 23-cv-146-JAW, 2024 WL 810033 (D. Me. Feb. 27, 2024), is pertinent to the Schools' pending Motion to Dismiss Defendants' Counterclaims (ECF No. 36). But MDE does not identify which of its counterclaims or arguments opposing the Motion to Dismiss are addressed by *Crosspoint Church*. Here, a preliminary injunction is already in place. And the legal issues in the Schools' Motion are limited to: (1) whether MDE has standing to assert its counterclaims on behalf of public high school students; (2) whether the Schools are state actors bound by the Minnesota Constitution and the First Amendment; and (3) whether the Minnesota Human Rights Act applies to the Schools' conduct. See ECF No. 36 at 7-19.

Crosspoint Church does not address any of these legal issues. It addresses only the *plaintiff church's* claims that Maine burdened its First Amendment rights by prohibiting it from participating in a tuition assistance program because it restricted admission to students who affirmed its religious beliefs. See 2024 WL 810033, at 13. While this analysis may be relevant to, if distinguishable from, future resolution of the Schools' claims against MDE, it has no bearing on the pending Motion to Dismiss.



Respectfully,

A handwritten signature in blue ink that reads "Diana V. Thomson".

Diana Verm Thomson
Senior Counsel
The Becket Fund for Religious Liberty